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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of	:	Customer Number: 46320
	:	
Kazuyuki TSUDA, et al.	:	Confirmation Number: 9452
	:	
Application No.: 10/056,106	:	Group Art Unit: 3623
	:	
Filed: January 25, 2002	:	Examiner: B. Boswell
	:	
For: WORKFLOW SYSTEM AND METHOD WITH SKIP FUNCTION	:	

**APPEAL BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed September 7, 2010, wherein Appellants appeal from the Examiner's rejection of claims 1-20.

**I. REAL PARTY IN INTEREST**

This real party of interest is IBM Corporation.

**II. RELATED APPEALS AND INTERFERENCES**

Appellants are unaware of any related appeals and interferences.

### **III. STATUS OF CLAIMS**

Claims 1-20 are pending and three-times rejected in this Application. It is from the multiple rejections of claims 1-20 that this Appeal is taken.

### **IV. STATUS OF AMENDMENTS**

The claims have not been amended subsequent to the imposition of the Third and Final Office Action dated May 6, 2010 (hereinafter the Third Office Action).

### **V. SUMMARY OF CLAIMED SUBJECT MATTER**

1 Claim 1 is directed to a workflow system, comprising design computer terminals for  
2 designing a workflow (Specification, pg. 10, lines 2-19; and Figure 1, #10), operation computer  
3 terminals for executing the workflow (Specification, pg. 10, lines.2-19; and Figure 1, #20), and a  
4 workflow server for managing the workflow connected to the design computer terminals and  
5 operation computer terminals via a network (Specification, pg. 10, lines. 2-19; and Figure 1 #30).

6 The design computer terminals design the workflow by defining in advance activities that may  
7 be skipped and re-execution points in the workflow where previously skipped activities are  
8 executed (Specification, pg. 12, lines.4-28; page 13, lines 1-14; and page 17, lines 13-30), and  
9 wherein said workflow server performs skip processing and reassignment processing for said  
10 operation computer terminals based on said workflow designed by said design computer  
11 terminals (Specification, pg. 12, lines 4-28; page 13, lines 1-14; and page 17, lines 13-30).

12 Claim 3 is directed to a workflow system, comprising computer terminals for executing a  
13 workflow (Specification page 10, lines 2-19; and Figure 1, #20), and a workflow server for  
14 managing said workflow connected to the computer terminals via a network. (Specification page

10, lines 2-19; and Figure 1, #30) The workflow server comprises means for defining a process flow by assigning transactions to predetermined operators, who operate the computer terminals, based on a workflow definition, means for performing skip processing automatically or manually according to directions from said computer terminals for skipping part of the process flow by skipping one of said operators to whom the transaction is assigned, and means for reassigning the skipped transaction to said one of said operators skipped by said means for performing skip processing, wherein the skipped transaction is executed (Specification, pg. 12, lines.4-28; page 13, lines 1-14; and page 17, lines 13-30).

Claim 5 is directed to a workflow server for managing a workflow connected to a plurality of computer terminals (Specification, pg. 10, lines 2-18; page 14, line 7, through page 16, line 5; Figure 1, #30). The workflow server comprises means for assigning to a predetermined person a transaction performed as a business process transaction, means for performing skip processing to skip the transaction assigned to said person, and means for assigning re-execution of the transaction to the skipped persons at predetermined timing in said workflow (Specification, pg. 12, lines 4-28; page 13, lines 1-14; and page 17, lines 13-30).

Claim 7 is directed to a workflow server for managing a workflow connected to a plurality of computer terminals (Specification, pg.14, lines 7-16; and Figure 5, #30), comprising a workflow definition management subsystem for managing workflow definitions (Specification, pg.14, lines 17-26; and Figure 5, #31), said workflow definitions being designed to define a workflow that includes nodes that may be skipped and recovery nodes, the recovery nodes indicating points in the workflow where skipped nodes are executed (Specification, pg. 12, lines. 4-28; page 13, lines 1-14; and page 17, lines 13-30); process management subsystem for managing processes created by using the workflow definitions (Specification, pg.15, lines.1-12;

1 and Figure 5, #32), a client request management subsystem for accepting a request from a person  
2 operating said computer terminal (Specification, pg.15, lines.13-21; and Figure 5, #33), and a  
3 user management subsystem for controlling assignment of a person based on stored information  
4 about said person (Specification, pg. 15, lines 22-28; and Figure 5, #34).

5 Claim 10 is directed to an information processing apparatus for defining a workflow to be  
6 executed by a plurality of computer terminals connected to a network (Specification, pg. 10,  
7 lines 2-18; and page 14, line 7, through page 16, line 5), comprising a plurality of nodes  
8 corresponding to business processes assigned to persons in charge of execution of the workflow  
9 (Specification, pg.1 0, line 26, through page 11, line 17), means for establishing a workflow  
10 using paths to connect the plurality of nodes (Specification, pg. 10, line 26, through page 11, line  
11 17), means for establishing at least one node among said plurality of nodes in the workflow that  
12 may be skipped during execution of the workflow (Specification, pg. 12, lines 4-28; page 13,  
13 lines 1-14; and page 17, lines 13-30), and means for establishing at least one recovery node in  
14 said workflow to define points on the workflow where transactions that were part of the at least  
15 one skipped node are executed (Specification, pg. 12, lines 4-28; page 13, lines 1-14; and page  
16 17, lines 13-30).

17 Claim 13 is directed to a method for defining a workflow executed at a plurality of  
18 computer terminals connected to a network (Specification, pg. 10, lines. 2-19; and Figure 1,  
19 #10), the method comprising the steps of defining a workflow by defining nodes that serve as  
20 business processes that are assigned to persons in charge of execution of the workflow  
21 (Specification, pg. 10, line 26, through page 11, line 17), designating at least one of said nodes as  
22 a node that may be skipped during the execution of the workflow (Specification, pg. 12, lines 4-  
23 28; page 13, lines 1-14; and page 17, lines 13-30), and designating at least one recovery node

1 that indicates a re-execution point in the workflow where the persons in charge of a previously  
2 skipped node re-execute the skipped business processes (Specification, pg. 12, lines. 4-28; page  
3 13, lines 1-14; and page 17, lines 13-30).

4 Claim 16 is directed to a method for executing a workflow executed at a plurality of  
5 computer terminals connected to a network (Specification, pg. 10, lines. 2-19), the method  
6 comprising the steps of assigning activities that are performed as transactions of business  
7 processes in the workflow to predetermined persons who operate the computer terminals  
8 (Specification, pg. 12, lines 4-28; page 13, lines 1-14; and page 17, lines 13-30), performing skip  
9 processing to skip at least one activity assigned to said persons (Specification, pg. 12, lines 4-28;  
10 page 13, lines 1-14; and page 17, lines 13-30), and assigning re-execution of the at least one  
11 activity skipped to said persons whose assigned activities have been skipped, at a predetermined  
12 time in said workflow (Specification, pg. 12, lines 4-28; page 13, lines 1-14; and page 17, lines  
13 13-30).

14 Claim 19 is directed to a computer-readable storage medium for storing a program code  
15 executable by a computer (Specification, pg.8, lines. 18-27), the program code comprising the  
16 steps of establishing nodes serving as business processes that are assigned to persons in charge of  
17 execution of a workflow, the nodes being included in the workflow (Specification, pg. 10, line  
18 26, through page 11, line 17); indicating that at least one of the nodes of the workflow may be  
19 skipped if the business processes of the at least one node cannot be completed when the  
20 workflow defines that the at least one node is to be executed (Specification, pg. 12, lines 4-28;  
21 page 13, lines 1-14; and page 17, lines 13-30), and establishing at least one recovery node where  
22 the persons in charge of skipped nodes re-execute the business processes (Specification, pg. 12,  
23 lines 4-28; page 13, lines 1-14; and page 17, lines 13-30).

1           Claim 20 is directed to a computer-readable storage medium for storing a program code  
2   executable by a computer (Specification, pg. 8, lines. 18-27), the program code comprising the  
3   steps of assigning activities that are performed as a transaction of business processes in a  
4   workflow to predetermined persons in charge, performing skip processing to skip one or more  
5   activities assigned to said persons, and assigning re-execution of the skipped activities to said  
6   persons whose assigned activities have been skipped, at a predetermined time in said workflow  
7   (Specification, pg. 12, lines 4-28; page 13, lines 1-14; and page 17, lines 13-30).

#### **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Claims 7-10 and 12-15 were rejected under 35 U.S.C. § 102 for anticipation based upon DeFrancesco Jr. et al., U.S. Patent No. 6,501,176 (hereinafter DeFrancesco); and

2. Claims 1-6, 11, and 16-20 were rejected under 35 U.S.C. § 103 for obviousness based upon DeFrancesco.

## **VII. ARGUMENT**

1       Decisions of the Patent Office are reviewed in accordance with the standards of the  
2   Administrative Procedure Act. See Dickinson v. Zurko, 527 U.S. 150, 165 (1999) (applying the  
3   Administrative Procedure Act, 5 U.S.C. § 706, to appeals of PTO rulings). Thus, the Patent  
4   Office's factual findings are reviewed to determine whether they are unsupported by substantial  
5   evidence. See In re Gartside, 203 F.3d 1305, 1312 (Fed. Cir. 2000). Substantial evidence means  
6   "more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept  
7   as adequate to support a conclusion." Richardson v. Perales, 402 U.S. 389, 401 (1971).

8  
9       In the Decision of Ex parte Frye, (Appeal No. 2009-006013) (Precedential), while  
10   referring to a rejection under 35 U.S.C. § 103, the Honorable Board stated:

11             The Board's role in any subsequent appeal is to, "*on written appeal of an*  
12             *applicant*, review adverse decisions of examiners upon applications for patents."  
13             35 U.S.C. § 6(b) (2006) (emphasis added). An appellant may attempt to overcome  
14             an examiner's obviousness rejection on appeal to the Board by submitting  
15             arguments and/or evidence to show that the examiner made an error in either (1)  
16             an underlying finding of fact upon which the final conclusion of obviousness was  
17             based, or (2) the reasoning used to reach the legal conclusion of obviousness.

18  
19       Thus, Appellants can identify error in the Examiner's reasoning and/or the underlying findings of  
20   fact made by Examiner in support of the Examiner's conclusion of unpatentability.

21  
22       The Honorable Board further went on to state within Ex parte Frye that:

23             The panel then reviews the obviousness rejection for error based upon the  
24             issues identified by appellant, and in light of the arguments and evidence



1 produced thereon. *See Oetiker*, 977 F.2d at 1445 (“In reviewing the examiner’s  
2 decision on appeal, the Board must necessarily weigh all of the evidence and  
3 argument.”) (emphasis added); *see also* 37 C.F.R. § 41.37(c)(1)(vii) (appeal brief  
4 must include “the contentions of appellant with respect to each ground of  
5 rejection presented for review in paragraph (c)(1)(vi) of this section, and the basis  
6 therefor, with citations of the statutes, regulations, authorities, and parts of the  
7 record relied on”). Specifically, the Board reviews the particular finding(s)  
8 contested by an appellant anew in light of all the evidence and argument on that  
9 issue.

10  
11 Therefore, a complete *de novo* review is to be performed on all issues that are raised by  
12 Appellants without deference to the positions taken by the Examiner.

13  
14 **THE REJECTION OF CLAIMS 7-10 AND 12-15 UNDER 35 U.S.C. § 102 FOR ANTICIPATION**  
15 **BASED UPON DeFRANCESCO**

16 For convenience of the Honorable Board in addressing the rejections, claims 8-10 and 12-  
17 15 stand or fall together with independent claim 7.

18  
19 The factual determination of anticipation under 35 U.S.C. § 102 requires the identical  
20 disclosure, either explicitly or inherently, of each element of a claimed invention in a single  
21 reference.<sup>1</sup> Moreover, the anticipating prior art reference must describe the recited invention  
22 with sufficient clarity and detail to establish that the claimed limitations existed in the prior art  
23 and that such existence would be recognized by one having ordinary skill in the art.<sup>2</sup>

---

<sup>1</sup> *In re Rijckaert*, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); *Perkin-Elmer Corp. v. Computervision Corp.*, 732 F.2d 888, 894, 221 USPQ 669, 673 (Fed. Cir. 1984).

<sup>2</sup> *See In re Spada*, 911 F.2d 705, 708, 15 USPQ 1655, 1657 (Fed. Cir. 1990); *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 678, 7 USPQ2d 1315, 1317 (Fed. Cir. 1988).

1  
2 "Both anticipation under § 102 and obviousness under § 103 are two-step inquiries. The  
3 first step in both analyses is a proper construction of the claims. ... The second step in the  
4 analyses requires a comparison of the properly construed claim to the prior art."<sup>3</sup> During patent  
5 examination, the pending claims must be "given their broadest reasonable interpretation  
6 consistent with the specification,"<sup>4</sup> and the broadest reasonable interpretation of the claims must  
7 also be consistent with the interpretation that those skilled in the art would reach.<sup>5</sup> Therefore, the  
8 Examiner must (i) identify the individual elements of the claims and properly construe these  
9 individual elements,<sup>6</sup> and (ii) identify corresponding elements disclosed in the allegedly  
10 anticipating reference and compare these allegedly corresponding elements to the individual  
11 elements of the claims.<sup>7</sup> This burden has not been met.

12  
13 Independent claim 7 recites, in part, the following limitations:

14 a workflow definition management subsystem in the workflow server for  
15 managing workflow definitions, said workflow definitions being designed to  
16 define a workflow that includes nodes that may be skipped and recovery nodes,  
17 the recovery nodes indicating points in the workflow where skipped nodes are  
18 executed. (emphasis added)

19  
20 Referring to the underlined portion of the above-reproduced claim language, the claimed  
21 invention, as a whole, involves the concept of a skipped node (i.e., a node that may be skipped)

---

<sup>3</sup> Medichem, S.A. v. Rolabo, S.L., 353 F.3d 928, 933 (Fed. Cir. 2003) (internal citations omitted).

<sup>4</sup> In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000).

<sup>5</sup> In re Cortright, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999).

<sup>6</sup> See also, Panduit Corp. v. Dennison Mfg. Co., 810 F.2d 1561, 1567-68 (Fed. Cir. 1987) (In making a patentability determination, analysis must begin with the question, "what is the invention claimed?" since "[c]laim interpretation, . . . will normally control the remainder of the decisional process"); see Gechter v. Davidson, 116 F.3d 1454, 1460 (Fed. Cir. 1997) (requiring explicit claim construction as to any terms in dispute).

<sup>7</sup> Lindermann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984).

1 and a recovery node by which the skipped node can be executed. Comparable limitations are  
2 found within independent claims 1, 3, 5, 10, 13, 16, and 19-20.<sup>8</sup>

3  
4 Throughout prosecution, Appellants' position has been that DeFrancesco fails to  
5 identically disclose the combined limitations of a skipped node/execution point/business  
6 process/activity/transaction (for ease of reference, collectively referred to as 'skipped activity')  
7 and then providing a re-execution point<sup>9</sup> by which the skipped activity is performed. Referring  
8 to the "Response to Arguments" section of the Third Office Action, the Examiner initially  
9 asserted the following in the last full paragraph on page 3:

10 DeFrancesco explicitly teaches "executing skipped steps". DeFrancesco teaches that in  
11 steps, each step is evaluated against tests that determine whether the step is complete or skipped  
12 (see column 9 lines 33-45). However, for exception steps, skip tests and completion tests are the  
13 same (see column 13 lines 38-50). If either test fails for an exception step, the step receives a  
14 status of incomplete (column 13 lines 42-44). This status will prompt attention from a user to  
15 perform some required action (see column 13 lines 44-45). Once the user action is performed, the  
16 steps are then re-executed (see column 13 lines 45-46). From these teachings, it is clear that a  
17 workflow step will be re-executed if it fails either a completion test or a skip test. Examiner notes  
18 that if the step fails the completion test, it is still being re-executed. Applicants in their arguments  
19 are improperly interchanging the terms "test" and "step". The cited portion of DeFrancesco clearly  
20 states that the status of a skipped exception rule is non-applicable (see column 13 lines 49-50).  
21 (emphasis added)  
22

---

<sup>8</sup> Independent claim 1 recites "advance activities that may be skipped and re-execution points ... where previously skipped activities are executed." Independent claim 3 recites "performing skip processing ... for skipping part of the process flow" and "reassigning the skipped transaction ... wherein the skipped transaction is executed." Independent claim 5 recites "performing skip processing to skip the transaction" and "assigning re-execution of the transaction." Independent claim 10 recites "at least one node ... that may be skipped" and "recovery node ... where transactions that were part of the at least one skipped node are executed." Independent claim 13 recites "at least one node ... that may be skipped" and "recovery node ... where the persons in charge of a previously skipped node re-execute the skipped business process." Independent claim 16 recites "skip processing to skip at least one activity" and "re-execution of the at least one activity skipped." Independent claim 19 recites "nodes of the workflow may be skipped" and "recovery node where the persons in charge of skipped nodes re-execute the business process." Independent claim 20 recites "skip processing to skip one or more activities" and "re-execution of the skipped activities."

<sup>9</sup> The various independent claims use different language for the "re-execution point," which is being used herein for ease of reference.

For ease of reference, the first of the two passages (i.e., column 9, lines 33-45) cited by the Examiner are reproduced below:

Each workflow step 418 may be associated with one or more tests, as shown by block 412. The workflow management system of the present invention uses tests 412 to build a workflow for an application and to define how a step 418 is processed. The step type 414 determines which tests 412 are needed to ensure the correct processing of the step. It should be recalled that in general, tests use rules which link activity with workflow steps so that when a function is performed, the workflow management system knows which steps may have been affected. Those steps are then evaluated using the associated tests to determine the status 416 of the potentially affected steps 418. (column 9, lines 33-45)

This passage simply teaches that each workflow step 418 may have one or more tests associated with the step 418 and these tests define how the step 418 is processed.

For ease of reference, the second of the two passages (i.e., column 13, lines 33-50) cited by the Examiner are reproduced below:

For a normal step 414, the SYNC method will examine the skip tests 422, to determine if the step should be skipped. If the process step is not skipped then the completion tests 422 are examined. If all the completion tests pass, this indicates that the process step is now complete and the status 416 changes from incomplete to complete. If any of the completion tests are FALSE, the process step is not complete and the status 416 remains unchanged and incomplete.

If the process step is of the type exception 414, the completion and skip tests 422 are the same. Accordingly, the rules 412 associated with an exception step are both the skip and completion rules. Thus, for exception steps, if at least one of the rules fail, an exception is indicated and the status 416 for the step is incomplete. This will prompt attention from a user, that action is required to complete the process step. Once the user performs the required action, these tests will be executed again. If at that time, all of the tests pass, the step will be tagged with a complete status. If all of the tests for an exception step pass the first time through, there is no exception and the rule is skipped. The status 416 for a skipped exception rule is non-applicable (N/A).

Returning again to the Examiner's analysis, the Examiner asserted that "a workflow step will be re-executed if it fails either a completion test or a skip test." The Examiner also asserted that "if the step fails the completion test, it is still being re-executed." Appellants respectfully submit that the Examiner has mischaracterized the teachings of DeFrancesco.

DeFrancesco does not identically disclose a skipped activity followed by a re-execution point by which the skipped activity is performed. Although DeFrancesco teaches 3 different types of process steps 418 (see block 414 in Fig. 4 which shows the types of (i) normal; (ii) exception; and (iii) automatic), the Examiner's cited passage of column 13, lines 38-50 refers to the tests performed for the process step of a type exception. As discussed in column 9, lines 38-39 of DeFrancesco, the type of process step determines the tests used to determine how the step is processed. For a process step of a type execution, the tests involve both completion and skip tests.<sup>10</sup>

Referring to column 9, lines 32-33, DeFrancesco teaches that "[s]teps that are skipped are tagged with a N/A status flag." Thus, unless a step has been tagged with a N/A status flag, then that step has not been skipped. The process described by column 13, lines 38-50 involves evaluating both the skip and completion rules. If an exception is indicated (i.e., if one of the skip or completion rules fails), an exception is indicated and "the status 416 for the step is incomplete." As described within DeFrancesco, "[t]his will prompt attention from a user, that action is required to complete the process step." Once the user performs the required action, the tests will be executed again. Ultimately, when all of the tests pass, "the step will be tagged with a complete status."

Notably, the process step is not skipped and then subsequently re-executed. As discussed above, DeFrancesco explicitly teaches that skipped steps are tagged with a N/A status flag.

---

<sup>10</sup> DeFrancesco uses the term "rules" and "tests" interchangeably. For example, tests 412 are also referred to as rules 412. This is consistent with column 9, line 40 of DeFrancesco, which states "tests use rules."

1 However, when the exception is indicated, the process is not tagged with a N/A status flag.  
2 Instead, as explicitly taught by DeFrancesco, "the status 416 for the step is incomplete." Thus,  
3 when an exception is indicated, the process step is held, within a status 416 of *incomplete*, until a  
4 user takes an action. Upon the user taking the proscribed action, the tests are executed again, and  
5 this continues until all of the tests pass. Thus, this process step is not skipped and then executed  
6 – otherwise, the process step would first receive a status 416 of N/A and then complete. Instead,  
7 the process step is being held with a status 416 of incomplete until the exception is cleared, after  
8 which, the process step is tagged with a status 416 of complete.

9  
10 The Examiner's cited passage does teach "[i]f all of the tests for an exception step pass  
11 the first time through, there is no exception and the rule is skipped." In such an instance, the  
12 process step is skipped. However, in such an instance, DeFrancesco does not teach that the  
13 "workflow step will be re-executed if it fails either a completion test or a skip test," which the  
14 Examiner alleged as corresponding to executing the skipped test. The reason being is that "[i]f  
15 all of the tests for an exception step pass the first time through," then the complete test or skip  
16 test has not failed, which is the condition precedent for the Examiner's alleged teaching.

17  
18  
19 In an alternative analysis regarding the claim limitations at issue, the Examiner asserted  
20 the following in the paragraph spanning pages 3 and 4 of the Third Office Action:

21 Examiner cited this portion of DeFrancesco as it clearly illustrates this feature.  
22 DeFrancesco further discusses "executing skipped steps" in its discussion of executing parent and  
23 child steps (see column 15 lines 20-29). DeFrancesco teaches that if a parent step is found to have  
24 a child step, the parent step is skipped until all of the child steps have been executed (see column  
25 15 lines 20-29). Upon completion of the dependent child steps, the skipped parent step is then  
26 executed (see column 15 lines 20-29). Furthermore, DeFrancesco contemplates the performance of  
27 steps not necessarily in any order (see column 8 lines 48-50).

For ease of reference, column 15, lines 11-29 is reproduced below:

If the process step does not have a status 416 of 'N/A', control passes to step 912. In step 912, the INITIALIZESTEP method 808 determines whether the process step is 'collateral specific' 420. If it is, control passes to step 924, where a separate copy of the process step is activated for each collateral item in the credit application. Control then passes to step 925 where the NOTICE method 508 is called so that the steps just activated are noticed by the workflow management system. Control then passes to step 914.

If step 912 determines that the process step is not collateral specific, control passes to step 914. In step 914, the method searches for a child step whose parent is 'ThisStep' and does not follow another step. That is, the method looks for a child step that does not depend on another step being completed. If such a step is found, this process INITIALIZESTEP is recursively called for the child step. If there is no such child step, control passes to step 918 where the child step is noticed by the workflow management system and method ends, as indicated by step 920.

The Examiner's cited passage is column 15, lines 20-29, which refers to the second paragraph of the above-reproduced passage. Notably, the Examiner's cited passage refers to a path that leads from step 912 to step 914 and then ultimately to step 918. This path, however, begins at step 910, which is discussed in the first paragraph of the above-reproduced passage. Step 910 asks the question "IS ThisStep 'N/A'?", and if the answer is "No," then the process proceeds along the path described in the second paragraph of the above-reproduced passage.

The Examiner's analysis neglects to consider, in a point already addressed above, is that in column 9, lines 32-33, DeFrancesco teaches that "[s]teps that are skipped are tagged with a N/A status flag." Since, the answer to the question within step 910 is "No," the Examiner's analysis refers to teachings that involve a step that has not been skipped. Therefore, despite the Examiner's assertion that DeFrancesco teaches "[u]pon completion of the dependent child steps, the skipped parent step is then executed," column 15, lines 20-29 (i.e., the second paragraph of the above-reproduced passage) is completely silent as to these alleged teachings. Therefore, the Examiner's alleged findings of facts are unsupported by substantial evidence.

1  
2  
3 Independent claim 7 also recites "nodes that may be skipped" (i.e., skipped nodes) and  
4 "recovery nodes." Each and every word in a claim must be construed to have meaning. Exxon  
5 Chem. Patents, Inc. v. Lubrizol Corp., 64 F.3d 1553, 1557 (Fed.Cir.1995), and ignoring a claim  
6 term constitutes clear legal error. Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 5  
7 USPQ2d 1434 (Fed. Cir. 1988). The general assumption is that different terms have different  
8 meanings. Applied Medical Resources Corp. v. United States Surgical Corp., 448 F.3d 1324,  
9 1333 n.3 (Fed. Cir. 2006), and a proper claim interpretation gives full effect to the recitation of  
10 two distinct elements. Unique Concepts, Inc. v. Brown, 939 F.2d 1558, 1561-62 (Fed. Cir.  
11 1991). Thus, the Examiner is required to indicate where, within DeFrancesco, two specific and  
12 distinct features that allegedly correspond to the claimed skipped nodes and recover nodes can be  
13 found. The Examiner, however, has failed to perform this analysis.

14  
15 **THE REJECTION OF CLAIMS 1-6, 11, AND 16-20 UNDER 35 U.S.C. § 103 FOR**  
16 **OBVIOUSNESS BASED UPON DeFRANCESCO AND GABBITTA**

17 For convenience of the Honorable Board in addressing the rejections, claims 1-6, 11, and  
18 16-20 stands or falls together with independent claim 7.

19  
20 Independent claims 1, 3, 5, 16, and 19-20 include similar limitations to those argued above  
21 with regard to independent claim 7 (see footnote 8), and Appellants incorporate herein the  
22 arguments previously advanced in traversing the imposed rejection of claim 7 under 35 U.S.C. §  
23 102 for anticipation based upon DeFrancesco. The secondary reference to Gabbitta does not cure



1 the argued deficiencies of DeFrancesco. Accordingly, even if one having ordinary skill in the art  
2 did modify DeFrancesco in view of Gabbitta, the proposed combination of references would not  
3 yield the claimed invention. Appellants, therefore, respectfully submit that the imposed rejection  
4 of claims 1-6, 11, and 16-20 under 35 U.S.C. § 103 for obviousness based upon DeFrancesco is  
5 not viable.

6  
7 Conclusion

8 Based upon the foregoing, Appellants respectfully submit that the Examiner's rejections  
9 under 35 U.S.C. §§ 102, 103 based upon the applied prior art is not viable. Appellants, therefore,  
10 respectfully solicit the Honorable Board to reverse the Examiner's rejections under 35 U.S.C. §§  
11 102, 103.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due under 37 C.F.R. §§ 1.17, 41.20, and in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: November 2, 2010

Respectfully submitted,

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CUSTOMER NUMBER 46320

### **VIII. CLAIMS APPENDIX**

1. A workflow system, comprising:

design computer terminals for designing a workflow;

operation computer terminals for executing said workflow; and

a workflow server for managing said workflow connected to said design computer terminals and operation computer terminals via a network, wherein

said design computer terminals design the workflow by defining in advance activities that may be skipped and re-execution points in said workflow where previously skipped activities are executed, and wherein

said workflow server performs skip processing and reassignment processing for said operation computer terminals based on said workflow designed by said design computer terminals.

2. The workflow system of Claim 1, wherein

said design computer terminals design the workflow using a plurality of nodes serving as activities that perform transactions,

at least one recovery node serving as said re-execution point, and

paths connecting the nodes and recovery node.

3. A workflow system, comprising:

computer terminals for executing a workflow; and

a workflow server for managing said workflow connected to said computer terminals via a network, wherein said workflow server comprises:

means for defining a process flow by assigning transactions to predetermined operators, who operate said computer terminals, based on a workflow definition;

means for performing skip processing automatically or manually according to directions from said computer terminals for skipping part of the process flow by skipping one of said operators to whom the transaction is assigned; and

means for reassigning the skipped transaction to said one of said operators skipped by said means for performing skip processing, wherein the skipped transaction is executed.

4. The workflow system of Claim 3, wherein

said computer terminals send out completion of the transaction to the workflow server after performing the transaction assigned by said workflow server, wherein said transaction assigning means of the workflow server assigns a next transactor in response to the completion of said transaction from said computer terminals.

5. A workflow server for managing a workflow connected to a plurality of computer terminals, comprising:

means for assigning to a predetermined person a transaction performed as a business process transaction;

means for performing skip processing to skip the transaction assigned to said person; and

means for assigning re-execution of the transaction to the skipped persons at predetermined timing in said workflow.

6. The workflow server of Claim 5, wherein

said skip processing is performed when a skip request is received from a predetermined computer terminal connected to a network or when predefined conditions are satisfied.

7. A workflow server for managing a workflow connected to a plurality of computer terminals, comprising:

a workflow definition management subsystem in the workflow server for managing workflow definitions, said workflow definitions being designed to define a workflow that includes nodes that may be skipped and recovery nodes, the recovery nodes indicating points in the workflow where skipped nodes are executed;

a process management subsystem in the workflow server for managing processes created by using said workflow definitions;

a client request management subsystem in the workflow server for accepting a request from a person operating said computer terminal; and

a user management subsystem for controlling assignment of a person based on stored information about said person.

8. The workflow server of Claim 7, wherein

said process management subsystem automatically or manually ends an activity that is determined to be skipped, the activity serving as a transaction for each person forming said process, and then starts a next activity.

9. The workflow server of Claim 8, wherein

said process management subsystem stores information about the skipped activity as a skip list and assigns the skipped activity to an appropriate person by referring to the skip list when proceeding to processing of said recovery node while performing activities in sequence.

10. An information processing apparatus for defining a workflow to be executed by a plurality of computer terminals connected to a network, comprising:

a plurality of nodes corresponding to business processes assigned to persons in charge of execution of the workflow;

means for establishing a workflow using paths to connect the plurality of nodes;

means for establishing at least one node among said plurality of nodes in the workflow that may be skipped during execution of the workflow; and

means for establishing at least one recovery node in said workflow to define points on the workflow where transactions that were part of the at least one skipped node are executed.

11. The information processing apparatus of Claim 10, wherein

said means for establishing a flow displays said plurality of nodes with predetermined flow icons and connects said flow icons using said paths, while

said means for establishing at least one recovery node displays said at least one recovery node with at least one predetermined recovery icon and connects said at least one recovery node with predetermined nodes using said paths.

12. The information processing apparatus of Claim 10, further comprising

means for defining conditions for causing an automatic skip operation for said at least one skippable node established by said means for establishing said at least one skippable node.

13. A method for defining a workflow executed at a plurality of computer terminals connected to a network, the method comprising the steps of:

receiving, by a workflow definition management subsystem in a workflow server, a definition of a workflow that defines nodes that serve as business processes that are assigned to persons in charge of execution of the workflow;

receiving, by the workflow server, a designation of at least one of said nodes as a node that may be skipped during the execution of the workflow; and

receiving, by the workflow server, a designation of at least one recovery node that indicates a re-execution point in the workflow where the persons in charge of a previously skipped node re-execute the skipped business processes.

14. The method of Claim 13, further comprising the steps of:

forming a workflow using said established nodes and paths to determine a sequence of the business processes; and

establishing said at least one recovery node at pre-determined points on said workflow.

15. The method of Claim 13, further comprising the step of

establishing conditions for skipping any of said established nodes determined to be skippable.

16. A method for executing a workflow executed at a plurality of computer terminals connected to a network, the method comprising the steps of:

receiving, by a workflow server, an assignment of activities that are performed as transactions of business processes in the workflow to pre-determined persons who operate the computer terminals;

performing, by the workflow server, skip processing to skip at least one activity assigned to said persons; and

assigning, by the workflow server, re-execution of the at least one activity skipped to said persons whose assigned activities have been skipped, at a predetermined time in said workflow.

17. The method of Claim 15, wherein

a list of said activities assigned to each person is stored as a wordlist, and wherein a transaction is performed by retrieving a transaction request from said work list.

18. The method of Claim 16, wherein

information about any of said persons whose assigned activities have been skipped is stored as a skip list, and wherein

re-execution of the skipped activities is performed in sequence based on the information stored in said skip list.

19. A computer-readable storage medium for storing a program code executable by a computer, the program code comprising the steps of:



establishing nodes serving as business processes that are assigned to persons in charge of execution of a workflow, the nodes being included in the workflow;

indicating that at least one of the nodes of the workflow may be skipped if the business processes of the at least one node cannot be completed when the workflow defines that the at least one node is to be executed; and

establishing at least one recovery node where the persons in charge of skipped nodes re-execute the business processes.

20. A computer-readable storage medium for storing a program code executable by a computer, the program code comprising the steps of:

assigning activities that are performed as a transaction of business processes in a workflow to predetermined persons in charge;

performing skip processing to skip one or more activities assigned to said persons; and

assigning re-execution of the skipped activities to said persons whose assigned activities have been skipped, at a predetermined time in said workflow.

**IX. EVIDENCE APPENDIX**

No evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the Examiner has been relied upon by Appellants in this Appeal, and thus no evidence is attached hereto.

**X. RELATED PROCEEDINGS APPENDIX**

Since Appellants are unaware of any related appeals and interferences, no decision rendered by a court or the Board is attached hereto.